

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of)
IRON MOUNTAIN MINES, INC. for)
Review of California Regional)
Water Quality Control Board,)
Central Valley Region, Order)
No. 81-088. Our File No. A-300.)

Order No. WQ 82-3

BY THE BOARD:

On July 24, 1981, the California Regional Water Quality Control Board, Central Valley Region (Regional Board) adopted Order No. 81-088. Pursuant to Water Code Section 13305, the Regional Board found that a condition of pollution or nuisance existed from Iron Mountain Mines, Inc. (discharger), a non-operating business and requested Shasta County, the U.S. Department of the Interior, the Bureau of Reclamation and all other appropriate public agencies to abate the condition of pollution. On September 4, 1981, the discharger filed a Request for Stay of Order No. 81-088 and a request that the State Board review this order. Despite the untimeliness of the petition, the State Board decided to hear the matter on its own motion. The petition did not meet the regulatory requirements for a stay.

The State Board held a duly noticed public hearing on February 9, 1982. The purpose of the hearing was to consider the merits of the Regional Board's order requesting public agencies to correct and abate any conditions of pollution or nuisance.

I. BACKGROUND

Iron Mountain Mine is located nine miles northwest of the City of Redding in Shasta County. The area was intensely mined from 1896 to 1945, with only limited mining since. The last extraction of ore occurred in 1963. Iron Mountain Mines, Inc. (IMM) purchased the property in 1976. Acid mine drainage and runoff containing heavy metals discharge from the mine into Boulder and Sliprock Creeks. These creeks are tributary to Keswick Reservoir at the head of the Sacramento River. A cementation plant was constructed by the previous owner on Boulder Creek as part of a copper production business. In response to previous Regional Board orders, a cementation plant was also constructed on Slickrock Creek. These plants consist of wooden or concrete treatment tanks to be kept full of shredded steel. As the acid mine drainage percolates through the treatment tanks, the shredded metal causes the copper to be removed with up to a 99 percent efficiency. It is estimated that approximately 60 percent of the copper discharged from the mine property is from these point sources.

The Regional Board adopted waste discharge requirements for the petitioner for discharge of acid mine drainage and runoff from several nonpoint sources in July 1977. In September 1978, an NPDES permit was adopted to regulate discharge from the Boulder and Slickrock cementation plants. A Cease and Desist Order was adopted in January 1979 for violation of the NPDES permit. In July 1979, the petitioner's violations of the Cease and Desist Order were referred to the Attorney General.

The Regional Board adopted Order No. 81-088 in July 1981 because of continuing violations of the Cease and Desist Order. The Regional Board found there had been repeated failures to treat wastes in the copper cementation plants and that no progress had been made toward reduction of zinc, cadmium and other heavy metals in acid mine drainage and runoff from waste rock and tailings piles. Additionally, the Regional Board found that the petitioners had denied the Regional Board access to conduct studies to determine best available techniques to control discharge of heavy metals from the mine.

The petition raised several procedural issues concerning the Regional Board's notice procedures for its July 24, 1981 Board meeting. Additionally, the petitioner requested the State Board hold a hearing to examine the actions of the Regional Board and to hear any other additional arguments. We believe the February 9, 1982 hearing has resolved any procedural issues.

II. DISCUSSION

Water Code Section 13305 provides:

"(a) Upon determining that a condition of pollution or nuisance exists which has resulted from a nonoperating industrial or business location within its region, a regional board may cause notice of such condition to be posted upon the property in question. The notice shall state that such condition constitutes either a condition of pollution or nuisance which must be abated by correction of such condition, otherwise it will be corrected by the city, county, other public agency, or regional board at the property owner's expense. Such notice shall further state that all property owners having any objections to the proposed correction of such condition may attend a hearing to be held by the board at a time not less than 10 days from the posting of the notice.

"(b) Notice of the hearing prescribed in this section shall be given in the county where the property is located pursuant to Section 6061 of the Government Code.

"(c) In addition to posting and publication, notice as required in this section shall be mailed to the property owners as their names and addresses appear from the last equalized assessment roll.

"(d) At the time stated in the notices, the board shall hear and consider all objections or protests, if any, to the proposed correction of the condition, and may continue the hearing from time to time.

"(e) After final action is taken by the board on the disposition of any protests or objections, or in case no protests or objections are received, the board shall request the city, county, or other public agency in which the conditions of pollution or the nuisance exists to abate it. In the event that such city, county, or other public agency does not abate such condition within a reasonable time the board shall cause the condition to be abated. It may proceed by force account, contract or other agreement or any other method deemed most expedient by the board, and shall apply to the state board for the necessary funds.

"(f) The owner of the property on which the condition exists, or is created is liable for all reasonable costs incurred by the board or any city, county, or public agency in abating the condition. The amount of the cost for abating the condition upon the property in question shall constitute a lien upon the property so posted upon the recordation of a notice of lien, particularly describing the property on which the condition was abated and the amount of such lien, and naming the owner of record of such property, in the office of the county recorder of the county in which the property is located. Upon such recordation, the lien shall have the same force, effect, and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution, except that it shall attach only to the property so posted and described in such notice of lien, and shall continue for 10 years from the time of the recording of such notice unless sooner released or otherwise discharged. Such lien may be

foreclosed by an action brought by the city, county, other public agency, or state board, on behalf of the regional board, for a money judgment. Money recovered by a judgment in favor of the state board shall be returned to the State Water Pollution Cleanup and Abatement Account.

"(g) The city, county, other public agency, or state board on behalf of a regional board, may at any time release all or any portion of the property subject to a lien imposed pursuant to subdivision (f) from the lien or subordinate such lien to other liens and encumbrances if it determines that the amount owed is sufficiently secured by a lien on other property or that the release or subordination of such lien will not jeopardize the collection of such amount owed. A certificate by such board, city, county or other public agency to the effect that any property has been released from such lien or that such lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in such certificate.

"(h) As used in this section, the words "non-operating" or "not in operation" means the business is not conducting routine operations usually associated with that kind of business."

At the February 9, 1982 hearing, we received testimony concerning the merits of the Regional Board's Order No. 81-088.

The Regional Board staff made an extensive presentation concerning the existence of a condition of pollution or nuisance which should be abated at the Iron Mountain site. The Regional Board introduced comprehensive monitoring data and other evidence concerning the source location, type and effect of the pollution. The acid mine discharge contains, among other things, excessive amounts of copper, zinc, cadmium and arsenic. This discharge significantly detrimentally effects the water quality of Boulder and Slickrock Creeks, Keswick

Reservoir and the Sacramento River below the Keswick Reservoir. The discharge is toxic to fish and aquatic life and has resulted in numerous fish kills. The California Department of Fish and Game introduced substantial evidence and testified that the fish populations in the Sacramento River below the Keswick Reservoir are receiving detrimental exposures of both copper and cadmium on a chronic basis. Supporting testimony was also received from the federal National Marine Fisheries Service. The Department of Health Services and the City of Redding in separate letters expressed concern that the mine discharge may threaten downstream domestic water supplies.

The Regional Board also testified that ore mining has not occurred at the site since 1963 and that Iron Mountain Mine is not currently conducting mining activities. Additionally, the Regional Board response to the petition discussed the issue of the treatment of Iron Mountain Mines, Inc. as a nonoperating entity.

The Regional Board further notes that its treatment of Iron Mountain Mine as a nonoperating mine is consistent with communications which it has received from the petitioner.^{1/} The

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1. For example, the Regional Board adopted far more lenient effluent limitations in the petitioner's NPDES permit than the limitations required by the Environmental Protection Agency for discharges from operating mines.

record before us supports the Regional Board finding that Iron Mountain Mine is a nonoperating business.^{2/}

The petitioner did not make a presentation at the hearing, citing a lack of funding. The petitioner did introduce into the record a number of studies. These documents were introduced by the petitioner to demonstrate that there have been a number of studies concerning acid mine drainage at the Iron Mountain property, and to prevent duplication of effort in the future. We have reviewed these documents for their informational value.

No evidence was received or testimony given which would refute any of the findings the Regional Board made when adopting Order No. 81-088 under Water Code Section 13305.

III. CONCLUSION

We believe the Regional Board acted properly in determining that a condition of pollution or nuisance exists resulting from a nonoperating business at the Iron Mountain Mine property. We base this conclusion on our review of the record and testimony evidence received at the hearing.

2. See, e.g. the Statement of the President of the Company, "Opposing Declaration of T. W. Arman In Response to Order To Show Cause Re: Contempt," February 23, 1981, stating that "Neither Iron Mountain Mines, Incorporated nor Stauffer Chemical Company has done any mining of the sulfide ore which is situated on the property."

IV. ORDER

Regional Board Order No. 81-088 is affirmed.

DATED: May 20, 1982

/s/ Carla M. Bard

Carla M. Bard, Chairwoman

/s/ L. L. Mitchell

L. L. Mitchell, Vice-Chairman

/s/ Jill B. Dunlap

Jill B. Dunlap, Member

ABSENT

F. K. Aljibury, Member